

SENATE Education

Exhibit No. _____

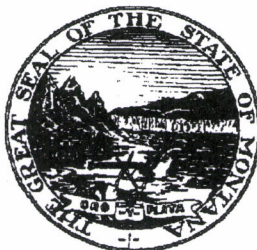
Date _____

Bill No. _____

3/13/2015

HB 284

Ed McLean, Dept. 1
Robert Deschamps, Dept. 2
John W. Larson, Dept. 3
Karen S. Townsend, Dept. 4
District Judges
Fourth Judicial District



Missoula County Courthouse
200 West Broadway
Missoula, MT 59802
(406) 258-4773
Fax: (406) 258-4739

Senator Tom Facey
Senator Nels Swandal
Representative Kimberly Dudik

RE: H.B. 284
Hearing March 13, 2015

We are writing concerning amendments to the above Bill made in the House Education Committee which is now before the Senate Education Committee for a Friday, March 13, 2015, hearing. The impact of bullying on our youth in school is a significant concern, but giving the entire problem to the courts (§5) is not a realistic solution.

Willful and repeated harm inflicted through use of computers, cell phones and other electronic devices are already in cases we handle in domestic relations/custody case, criminal cases and in orders of protection. They can be complex and time consuming and are not readily solved by a court order or a hearing.

A major difference between those cases and HB 284 is the absence of a clear process to be followed. Simply moving the issue from a classroom to a courtroom will solve nothing and result in a lot of confusion and delay in our courts.

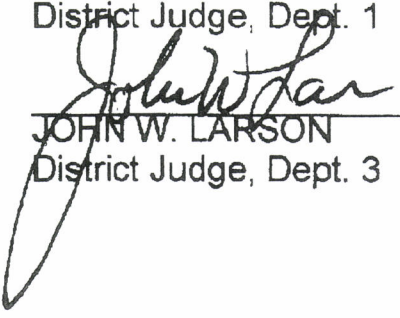
The Bill as originally crafted clearly has the process start within the school. Leapfrogging to a court without allowing the school to address issues first will slow and confuse the issues.

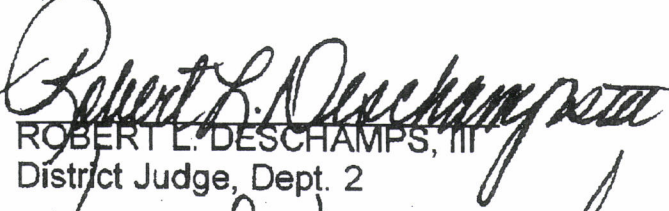
Finally, matters concerning a perception of First Amendment infringement (§2D) issues are ill-suited to be brought before a court. Again, a school district process will allow a more thoughtful and appropriate response.

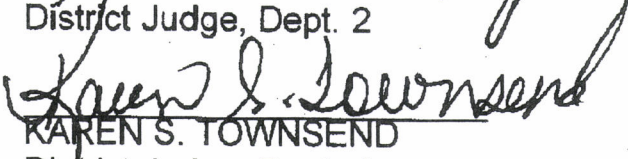
As you know, our District Courts are already understaffed, bringing these cases to our door without any prior attempt to resolve will make a difficult situation worse.

DATED this 10th day of March, 2015.


ED MCLEAN
District Judge, Dept. 1


JOHN W. LARSON
District Judge, Dept. 3


ROBERT L. DESCHAMPS, III
District Judge, Dept. 2


KAREN S. TOWNSEND
District Judge, Dept. 4

2015 Montana LegislatureAdditional Bill Links PDF (with line numbers)

HOUSE BILL NO. 284

INTRODUCED BY K. DUDIK, R. PEPPERS, SWANDAL

A BILL FOR AN ACT ENTITLED: "AN ACT PROMOTING SAFE SCHOOLS AND CREATING THE BULLY-FREE MONTANA ACT; PROVIDING DEFINITIONS; PROHIBITING BULLYING OF STUDENTS; REQUIRING EACH SCHOOL DISTRICT ~~OR NONPUBLIC ACCREDITED SCHOOL~~ TO ADOPT A POLICY ADDRESSING BULLYING; ~~AND~~ PROVIDING MINIMUM REQUIREMENTS FOR THE CONTENTS OF A POLICY; AND PROVIDING FOR ENFORCEMENT AGAINST A VIOLATION IN DISTRICT COURT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 4 ~~5~~] may be cited as the "Bully-Free Montana Act".

NEW SECTION. Section 2. Definitions. (1) "Bullying" means any harassment, intimidation, hazing, or threatening, insulting, or demeaning gesture or physical contact, including any intentional written, verbal, or electronic communication or threat directed against a student OR EMPLOYEE that is ~~repeated or has the potential to be repeated over time~~ PERSISTENT, SEVERE, OR REPEATED and that:

(a) causes a ~~student~~ PERSON physical harm, damages a ~~student's~~ PERSON'S property, or places a ~~student~~ PERSON in reasonable fear of harm to the ~~student~~ PERSON or the ~~student's~~ PERSON'S property;

(b) creates a hostile environment by interfering with or denying a student's access to an educational opportunity or benefit; or

(c) substantially and materially disrupts the orderly operation of a school; OR

(D) WITH RESPECT TO AN EMPLOYEE IN RELATION TO A STUDENT OR ANOTHER EMPLOYEE, CAUSES A STUDENT OR EMPLOYEE TO BELIEVE THAT THE EXERCISE OF THE STUDENT'S OR EMPLOYEE'S FIRST AMENDMENT RIGHTS UNDER THE UNITED STATES CONSTITUTION IS BEING UNREASONABLY SUPPRESSED.

(2) ~~The term includes retaliation against a victim or witness who reports information about an act of bullying and includes acts of hazing associated with athletics or school-sponsored organizations or groups.~~

NEW SECTION. Section 3. Bullying of student prohibited. (1) Bullying of a student enrolled in a public K-12 or ~~PK-12 school or nonpublic accredited~~ school by another student or an employee is prohibited:

- (a) on any location in a school building or on school premises;
- (b) during any school-sponsored program, event, activity, or function where the school is responsible for the student, including when the student is traveling to and from school or on a school bus or other school-related vehicle; or
- (c) through the use of electronic communication, as defined in 45-8-213, that substantially and materially disrupts the orderly operation of a school or any school-sponsored program, event, activity, or function where the school is responsible for the student.

(2) A student who is determined by a school district to have engaged in bullying is subject to discipline in accordance with the provisions of 20-5-201 and 20-5-202, including suspension, expulsion, and any other sanction authorized by law.

(3) A district or school employee or contracted employee found to have engaged in bullying of a student of the district or school is subject to discipline in accordance with district and school policy ~~and~~ other controlling contractual agreements. AND ANY OTHER SANCTION AUTHORIZED BY LAW.

NEW SECTION. Section 4. School district implementation. (1) Each school district ~~or nonpublic accredited school shall~~ MUST have a policy addressing bullying.

(2) Each district ~~or nonpublic accredited school~~ has discretion and control over the development and implementation of its policy, ~~but each district's or school's policy must include at a minimum:~~

- ~~—(a) a definition of bullying that includes the definitions provided in [section 2];~~
- ~~—(b) a statement prohibiting bullying of any student as described in [section 3];~~
- ~~—(c) a procedure for reporting and documenting reports of acts of bullying;~~
- ~~—(d) a procedure for prompt investigation, as defined in policy, of all reports of bullying and response to all reported acts of bullying that identifies the persons responsible for the investigation and response;~~
- ~~—(e) a procedure for determining whether the reported act is also subject to the jurisdiction of the district or school or of another public agency, including law enforcement, and a procedure for referral to the necessary persons or entity with appropriate jurisdiction;~~
- ~~—(f) a procedure for prompt notification, as defined in the policy, of the parents or guardians of the victim and perpetrator;~~
- ~~—(g) a procedure to protect the victim from further bullying and to refer the victim for appropriate remedial assistance, as defined in policy;~~

~~— (h) a procedure for establishing disciplinary consequences and appropriate remedial action to eliminate the hostile environment created by the bullying; and~~

~~— (i) a process for publicizing the policy, including inclusion in each district's or school's student handbook and personnel policy.~~

~~— (3) Compliance with [sections 2 through 4] must be considered during a school's accreditation review pursuant to 20-7-102.~~

NEW SECTION. SECTION 5. ENFORCEMENT -- EXHAUSTION OF ADMINISTRATIVE REMEDIES NOT REQUIRED. A PERSON ALLEGING A VIOLATION OF [SECTIONS 1 THROUGH 5] MAY BRING AN ACTION IN DISTRICT COURT TO ENJOIN ANOTHER PERSON FROM CONTINUING TO ENGAGE IN THE VIOLATION OR FOR DOING ANY ACT THAT CONTRIBUTES TO THE VIOLATION. THE PERSON ALLEGING A VIOLATION IS NOT REQUIRED TO EXHAUST ANY ADMINISTRATIVE REMEDIES PRIOR TO BRINGING THE ACTION.

NEW SECTION. Section 6. Codification instruction. [Sections 1 through 4 5] are intended to be codified as an integral part of Title 20, chapter 5, and the provisions of Title 20, chapter 5, apply to [sections 1 through 4 5].

- END -

Latest Version of HB 284 (HB0284.02)

Processed for the Web on February 21, 2015 (10:40am)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

See the status of this bill for the bill's primary sponsor.

Status of this Bill | 2015 Legislature | Leg. Branch Home

All versions of all bills (PDF format)

Authorized print version of this bill w/line numbers (PDF format)

[NEW SEARCH]

Prepared by Montana Legislative Services

(406) 444-3064